

1 Evan D. Schwab (NV Bar No. 10984)
2 Email: evan@schwablawnv.com
3 **SCHWAB LAW FIRM PLLC**
4 7455 Arroyo Crossing Parkway, Suite 220
5 Las Vegas, Nevada 89113
6 T: 702-761-6438
7 F: 702-921-6443

8 *Attorneys for Plaintiffs*

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 RAYMOND PELOSI, an individual;
12 UNITED STORAGE TECHNOLOGIES
13 INC., a Nevada Corporation

14 Plaintiff,

15 v.

16 AMAZON.COM INC., a Delaware
17 Corporation; AMAZON.COM LLC, a
18 Delaware Limited Liability Company;
19 AMAZON.COM SERVICES LLC, a
20 Delaware Limited Liability Company;
21 JOHN DOES 1 – 10; ROE
22 CORPORATIONS 1 – 10.

23 Defendant.

Case No.

Complaint

Jury Trial Demanded

- (1) Patent Infringement – Direct and Indirect
- (2) Injunctive Relief
- (3) Civil Conspiracy

24 Plaintiffs Raymond Pelosi (“Pelosi”) and United Storage Technologies Inc. (“US
25 Tech”) (collectively “Plaintiff”), by and through his attorneys of record Evan D. Schwab,
26 Esq. of Schwab Law Firm PLLC (“SLF”), alleges and pleads for their Complaint against
27 Defendants as follows:

28 **Parties**

1. Plaintiff Raymond Pelosi (“Pelosi”) is and was at all relevant times mentioned an individual residing in the State of Nevada and County of Clark.
2. Plaintiff United Storage Technologies Inc. (“US Tech”) is and was at all relevant times mentioned herein a Nevada corporation with headquarters/principal place of business in the State of Nevada, County of Clark that conducts business throughout the United States.

- 1 3. Defendant AMAZON.COM INC. is and was at all relevant times mentioned herein
2 a Delaware Corporation formed in 1996 with its principal place of business in the
3 State of Washington.
- 4 4. Defendant AMAZON.COM LLC is and was at all relevant times mentioned herein
5 a Delaware Corporation formed in 1999 with its principal place of business in the
6 State of Washington.
- 7 5. Defendant AMAZON SERVICES LLC is and was at all relevant times mentioned
8 herein a Delaware Limited Liability Company formed in 2002 with its principal
9 place of business in the State of Washington.
- 10 6. A reference to Defendant AMAZON.COM INC., AMAZON.COM LLC, and
11 AMAZON.COM SERVICES can be construed as a reference to one or both
12 Defendants and these Defendants can collectively be referred to as Amazon
13 Defendants.
- 14 7. Amazon Defendants are business entities engaged in the interstate sale of good,
15 services, media and electronics (“Goods and Services”) throughout the continental
16 United States. Amazon Defendants provide a forum for selling Goods and Services
17 with Amazon Defendants receiving compensation for the same from said sellers.
- 18 8. The true names or capacities, whether individual, corporate, association or
19 otherwise, of Defendants, Does 1 through 10, and Roe Corporations I through 10,
20 are unknown to Plaintiff, who, therefore, sues said Defendants by such fictitious
21 names. Plaintiff is informed and believes and thereupon alleges that each of the
22 said Defendants designed herein as Doe and Roe Corporation are responsible in
23 some manner for the events and happenings referred to and caused damages
24 proximately to Plaintiff as herein alleged, and that Plaintiff will ask leave of this
25 Court to amend this Complaint to insert the true names and capacities of Does I
26 through Does X and Roe Corporations I through Roe Corporations X, when the
27 same have been ascertained and to join such Defendant in this action.

1 9. Whenever reference is made to any act of Defendants in this Complaint, such
2 allegations shall be deemed to mean all named Defendants, or their officers,
3 agents, managers, representatives, employees, heirs, assignees, customers and
4 tenants, did or authorize such actions while actively engaged in the operation,
5 management, direction or control of the affairs of Defendants and while acting
6 within the course and scope of their duties.

7 **Jurisdiction and Venue**

8 10. Jurisdiction is proper in the federal court for (including but not limited to) the
9 following reasons. 18 U.S.C. § 1332 provides for federal jurisdiction based upon
10 diversity of citizenship where the amount in controversy exceeds seventy-five
11 thousand dollars (\$75,000) and Plaintiff and Defendants (collectively “Parties”)
12 are citizens of different states. Plaintiffs Pelosi and US Tech are deemed to be
13 citizen of the State of Nevada as Plaintiff Pelosi resides in the Clark County,
14 Nevada and Plaintiff US Tech is incorporated and has a principal place of
15 business/corporate headquarters in Clark County, Nevada. Amazon Defendants
16 are incorporated in Delaware and have their principal place of business in the
17 State of Washington.

18 11. Venue is proper in the District of Nevada pursuant to 28 U.S.C. § 1391 for
19 (including but not limited to) the following reasons. Clark County is the largest
20 county in the State of Nevada, accounting for around $\frac{3}{4}$ of the population of the
21 State of Nevada.¹ Amazon Defendants extensively service the State of Nevada
22 and its over two-million residents, having distribution centers and warehouses in
23 Clark County, Nevada. “[T]he substantial part of the events or omissions giving
24 rise to the claim occurred...” would be in Clark County, Nevada.² As set forth
25 below, Amazon Defendants carry and sell Plaintiffs’ U.S. Patent No. D846,892

27 ¹ https://en.wikipedia.org/wiki/Clark_County,_Nevada

28 ² 28 U.S.C. § 1391(b)(2).

1 “Six tier skirt hanger.” Likewise, Amazon Defendants carry and sell the infringing
 2 products outlined below and distribute them in Clark County, Nevada. Clark
 3 County, Nevada is where the United States District Court for the District of
 4 Nevada is comprised of one district and has a courthouse located in Las Vegas
 5 (Clark County), Nevada. As such, venue is proper in the United States District
 6 Court, District of Nevada and proceedings may take place in Clark County,
 7 Nevada at the Courthouse located at 333 S. Las Vegas Blvd., Las Vegas, Nevada
 8 89101.

9 **Demand for Jury Trial**

10 12. Plaintiff hereby demands a jury trial as provided by Rule 38(a) of the Federal
 11 Rules of Civil Procedure.

12 **Factual Allegations**

13 13. Plaintiff Pelosi hold U.S. Patent No. D846,892 for a “Six tier skirt hanger.”³ A
 14 printout of the above Patent is attached as Exhibit 1 to the Complaint.

15 14. Plaintiff US Tech is owned by Plaintiff Pelosi and distributes the patented 6-Tier
 16 Skirt/Pant Organizer (“Patented Item”) through Amazon Defendants throughout
 17 the United States, having done so for in excess of a year.

18 15. Amazon Defendants claim to be a neutral forum for the sale of Goods and Services.
 19 Amazon maintains a number of phone numbers, online reporting systems and the
 20 like that constitute a tangled bureaucracy of redirecting phone and
 21 email/electronic systems (“Window Dressing”) that prevent contact with a human
 22 sales agent or decision maker. In example, the Window Dressing requires that
 23 sellers such as Plaintiffs that find their patents or Patented Items being infringed
 24 upon submit an Amazon Report Infringement Form to Amazon Defendants for
 25 each individual infringement. Instead of a human response, Amazon sends back
 26 a metrics/auto-filled email that gives a number of canned/pre-programmed

27 ³ USPTO Patent records, attached as Exhibit 1.
 28

1 responses such as Amazon Defendants are unable to locate the patent. Amazon
2 Defendants request that the offended Sellers submit another form. Offended
3 sellers such as Plaintiffs then respond and attached a copy of the actual patent
4 and Amazon Defendants refuse to remove certain Sellers that infringing on the
5 Patent. Amazon Defendants continue to respond with non-responses or dilatory
6 tactics such as emails further indicating they cannot find record of the Patent.
7 Any communications with the Legal Department for Amazon Defendants are
8 funneled to email and receive no response of substance other than the issue is
9 under investigation. Where Amazon Defendants do remove sellers who are
10 infringing on the Patent, Amazon Defendants only remove low ranked and/or low
11 revenue sellers that have minimal to no effect on the financial bottom line of
12 Amazon Defendants. Amazon Defendants individually and systematically protect
13 higher ranked and large revenue sellers and refuse to remove their listings. In
14 addition to refusing to remove the listings of sellers who violate Plaintiffs' Patents
15 and the Patents of others, Amazon Defendants refuse to provide the contact
16 information for the offending Sellers to those whose Patents have been infringed
17 upon. Amazon Defendants is far from a neutral, mere "forum" and is now and has
18 been actively engaged in the business of calling winners and losers, balls and
19 strikes and favoring some sellers over others.

20 16. On or about October 9, 2020, Plaintiffs submitted a demand letter to Amazon
21 Defendants requesting (including but not limited to) the removal of infringing
22 items. Amazon Defendants have (to date) provided no response.

23 17. As set forth above and below, Amazon Defendants have permitted (despite
24 notification and objection of Plaintiffs) a number of sellers to infringe upon
25 Plaintiffs' patent with impunity and Amazon Defendants have refused to provide
26 contact information for the offending sellers so that Plaintiffs can take direct
27 action against the offending sellers. In example, the following sellers and items
28

have been allowed to remain up on Amazon despite requests for removal and Amazon has refused to disclose the contact information for the offending sellers:

Item Number	Seller	Item Description
BO7WNW592Y	Hasitpro	6-Tier Pants Shorts Hanger with Adjustable Clips Space Saving No Slip Hangers Skirt Organizer 3 Pack
BO7Q98Q1GS	HOUSE DAY	6 Tiers Shorts hangers Skirt Hangers with Clips Space Saving Pants Hangers, 2 Pack Multi Slack Skirt Hanger with Clips Metal Pants Hanger for Slack, Trouser, Jeans, Towels, Silver
BO89R4Z4PW	Niclogi	6 Tiers Skirt Hangers with Clips, 3 Pack Space Saving Pants Hangers, Multi Slack Trousers Closet Organizer for Slack Trouser, Jeans Towels

18.A number of the offending sellers are the same sellers (multiple listings) with slight variants of name and/or fictitious names that come from China and the like. Amazon Defendants purportedly maintain a policy against multiple listings, but do not practice what they preach.

19.The conduct of Amazon Defendants in protecting their infringing sellers, withholding information and other dilatory and problematic conduct make Amazon Defendants just as liable for the infringement on the Patent of Plaintiff as the offending sellers.

[Remainder of Space Intentionally Left Blank]

First Cause of Action

(Patent Infringement – Direct and Indirect)

20. Plaintiffs repeats and re-allege each and every of the allegations set forth in paragraphs 1 through 19 of the Complaint as if fully set forth herein and further allege the following.

21. Plaintiffs are patent holders and owners of patent rights for the Patented Item.⁴

22. Plaintiffs widely distribute the Patented Item across the United States through Amazon Defendants and other websites. The Patented Item is clearly marked US Tech at the point of sale.

23. Plaintiffs have been selling, distributing and otherwise making commercial use of the Patented Item on Amazon for well over a year and on other sites for in excess of ten years throughout the United States.

24. Defendants knew or should have been aware that the Offending Item was an infringement on the Patented Item.

25. Defendants engaged in literal infringement of the Patented Item by (including but not limited to) producing and distributing a product that matches each claim limitation in the Offending Product. In example, both the Patented Item and the Offending Item include six tiers, are meant for the hanging of skirts, contain two metal clips with a plastic tip on each tier and are virtually if not wholly identical.

26. To the extent the Court determines there is not literal infringement, there is most certainly infringement under the doctrine of equivalents. Specifically, to the extent one or more asserted patent claim limitations are deemed not to be literally present, the difference from the literal claim requirement and actual items are insubstantial. In example, the Offending Item “performs substantially the same

⁴ Exhibit 1.

1 function in substantially the same way to obtain the same result.”⁷ There is little
2 difference of significant between the Patented Item and the Offending Item.

3 27. Defendants have infringed upon Plaintiffs’ Patent in an open, aggressive, reckless
4 and indiscriminate manner.

5 28. The above discussed infringement was without permission, consent or approval of
6 Plaintiffs.

7 29. Plaintiffs are entitled to compensatory damages in the form of: (a) minimum
8 damages based on a “reasonable royalty”; and (b) lost profits.

9 30. Plaintiffs are entitled to enhanced damages up to three times the compensatory
10 damages as this is an extraordinary case.

11 31. Plaintiffs are entitled to damages in the form of attorney’s fees and costs.
12 Specifically, Defendant has engaged in inequitable conduct and willful
13 infringement.

14 32. Plaintiffs’ damages were proximately and legally caused by the conduct of
15 Defendant.

16 33. Plaintiffs have been required to retain the services of an attorney to prosecute this
17 action.

18 **Second Cause of Action**

19 **(Injunctive Relief)**

20 34. Plaintiffs repeat and re-alleges each and every of the allegations set forth in
21 paragraphs 1 through 33 of the Complaint as if fully set forth herein and further
22 allege the following.

23 35. Plaintiffs have a reasonable probability of success on the merits of the underlying
24 claims.

25 36. The remedies available at law (including monetary damages) are inadequate to
26 compensate Plaintiffs for that injury. In example, Defendant’s use of the

27 ⁷ *Siemens Med. Solutions USA, Inc. v. Saint-Gobain Ceramics & Plastics, Inc.*, 637
28 F.3d 1269 (Fed. Cir. 2011).

1 Offending Item will likely cause the termination of the Patented Item with
2 Walmart and for Plaintiffs to go out of business.

3 37. Without injunctive relief, Plaintiffs will suffer an irreparable harm. In example,
4 the continued marketing, distribution and sale of the Offending Item cause severe
5 harm, dilution of the Patent and would result in there being no viable commercial
6 use of Plaintiffs' patent. The only feasible way to protect Plaintiffs is to grant
7 injunctive relief, stopping Defendants from infringement on Plaintiffs' patent.
8 Absent such relief, Plaintiffs will not really be able to make a living or have a
9 viable business. Any award of damages would be illusory at best and sanction
10 Defendants' temporary use of Plaintiffs' trademark and Patented Item for profit
11 at great cost to Plaintiffs from which Plaintiffs may truly never recover.

12 38. The interest of the public and Plaintiffs are substantial in seeing the harm
13 stopped. Likewise, Plaintiffs would suffer immense hardships if the Court refused
14 to take action in the form of injunctive relief.

15 39. The purpose of seeking the temporary restraining order, restraining order,
16 injunction and permanent injunction is to preserve the status quo and/or to
17 preserve a business or property.

18 40. Plaintiffs will satisfy an appropriate bond as required by FRCP 65 or any
19 applicable case law.

20 41. As a result of Defendants' conduct, Plaintiff has suffered damages in an amount
21 in excess of seventy-five thousand dollars (\$75,000).

22 42. Any damages sustained by Plaintiffs were proximately and legally caused by the
23 conduct of Defendant.

24 43. Plaintiffs have been required to retain the services of an attorney to prosecute this
25 action and is entitled to a reasonable award of attorney's fees and costs.

26 [Remainder of Space Intentionally Left Blank]
27
28

Third Cause of Action

(Civil Conspiracy)

44. Plaintiffs repeat and re-allege of the allegations set forth in paragraphs 1 through 43 of the Complaint as if fully set forth herein and further allege the following.

45. Amazon Defendants and the Defendants/Sellers that Amazon Defendants refuse to disclose the contact information for conspired with the intent to accomplish an unlawful objective together of (including but not limited to) infringing on the Patent of Plaintiffs.

46. The association acted by a concert of action by agreement, understanding or “meeting of the minds” regarding the objective and means of pursuing it by explicit or tacit agreement. In example, Amazon Defendants (including but not limited to) permitted multiple listings by offending Defendants/sellers, refused to remove infringing items and continued to allow the listing of the offending items.

47. The association intended and intends to accomplish an unlawful objective for the purpose of harming another. In example, Defendants intended and intend to financially enrich themselves at the expense of Plaintiffs and the detriment of Plaintiffs’ patent.

48. The commission of unlawful acts were in furtherance of this agreement.

49. Plaintiffs suffered damages in an amount in excess of fifteen thousand dollars (\$15,000) as a direct, proximate and legal cause of the conduct of Defendants.

50. Plaintiffs have been required to retain the services of an attorney to prosecute this action and is entitled to a reasonable award of attorney’s fees and costs.

Prayer for Relief

Wherefore, Plaintiffs Raymond Pelosi (“Pelosi”) and United Storage Technologies Inc. (“US Tech”) (collectively “Plaintiffs”) pray for judgment against Defendants and requests the following relief as follows:

1. For an award of general damages in excess of \$15,000.
2. For an award of special damages in excess of \$15,000.
3. For consequential damages in excess of \$15,000.
4. For incidental damages in amount in excess of \$15,000.
5. For an award of compensatory damages including but not limited to: (a) reasonable royalty; and (b) lost profits type of damages.
6. For enhanced damages up to three (3) times the compensatory damages.
7. For injunctive relief (permanent and temporary) and a restraining order (permanent and temporary).
8. For specific performance by Defendants.
9. For prejudgment interest.
10. For reasonable attorney's fees and costs of suit incurred.
11. For other such relief as the Court deems just and proper under the circumstances.

Dated this 8th day of December 2020

Schwab Law Firm PLLC



Evan D. Schwab (NV Bar No. 10984)
7455 Arroyo Crossing Parkway, Suite 220
Las Vegas, Nevada 89113
E: evan@schwablawnv.com
T: 702-761-6438
F: 702-921-6443

Attorneys for Plaintiffs

Sworn Declaration of Raymond Pelosi in Support of Complaint

My name is RAYMOND PELOSI. I make this declaration under penalty of perjury. I have personal knowledge of the matters contained within this declaration and they are true and correct, except those matters not within my personal knowledge, and those matters I believe them to be true and correct.

1. I am a Plaintiff in and the principal with managing/speaking authority for Plaintiff United Storage Technologies Inc. ("US Tech") in Nevada Federal District Court Case No. TBD, captioned as *Pelosi, Raymond et al v. Amazon.com Inc. et al* ("Litigation").
2. I have read the foregoing Complaint and the know the contents thereof. The same are true of my own knowledge. As to those matters stated upon information and belief, I believe them to be true.

Executed under the laws of the State of Nevada this 8th day of December 2020.

/s/ Raymond Pelosi

Raymond Pelosi